

Attorney Docket No. AOL0080

U.S. Serial No.: 10/620,683

determining resource availability.

25. (Currently Amended) A robot agent for receiving Instant Messages from a first user-client and responsively interacting between the first user-client, a calendar server system, and other user-clients to enable each of the user-clients to enter queries and updating data into, and to receive queries and data from, the calendar server system; wherein said robot agent initiates messaging communications to said other user-clients and mediates a discussion related to data input by said first-user client.

REMARKS

1. Applicant thanks the Office for the kind assistance provided by Examiner Chankong in a telephone interview on November 26, 2007. During said interview, the Examiner advised Applicant that amending the preamble of claim 1 to describe a "system" rather than an "apparatus" would overcome the pending rejections under 35 U.S.C. § 112.

To overcome the pending rejections under §§ 102 and 103, Applicant proposed amending claim 1 to incorporate the subject matter of claim 4 and amending claim 13 to incorporate the subject matter of claim 16. The Examiner agreed that such a claim amendment would overcome the '102 rejection but disagreed that it would overcome the '103 rejection.

2. **35 U.S.C. § 112**

Claims 1, 4-8 and 11-12 are rejected under 35 U.S.C. § 112, 1st paragraph as failing to comply with the written description requirement. The same claims are also rejected under '112, 2nd paragraph as being indefinite. Applicant amends claim 1 to recite "a system" rather than "an apparatus." Support for the amendment is implicit in claim 1. Additional support for the amendment is found in the statement of the Technical Field, which describes the invention as "a messaging communication system." The dependent claims have been similarly amended. As amended the preamble introduces an entity more compatible in scale with that described in the body of the

Attorney Docket No. AOL0080

U.S. Serial No.: 10/620,683

claim and in the specification. Accordingly, the present rejections are deemed overcome.

3. Claims 1 and 13 are amended to describe their respective subject matter more clearly. As amended, claims 1 and 13 describe more clearly that data is input by a first one of the messaging clients and that the automated agents initiate messaging communications to the remaining messaging clients regarding the data input by the first messaging client. Support for the amendment is implicit in the claims. Additional support for the amendment is found at ¶ 0016 of U.S. patent application publication no. 2005/0027805: "In one embodiment, a bot appears as an entity on a buddy list. For example, a participant who would like to schedule a meeting initiates a conversation with the bot, which then asks a series of questions to determine the intent of the user. The bot could also initiate instant messaging communications to prospective meeting attendees and mediate a discussion related to the meeting."

4. **35 U.S.C. § 102**

Claims 1, 5-8, 11-12, 13, 17-20 and 23-25 are rejected as being anticipated by U.S. patent application publication no. 2003/0182391 ("Leber"). Claim 1 is amended to incorporate the subject matter of claim 4, determined to be novel over Leber. Claim 4 has been cancelled from the application.

Claim 13 has been amended in similar fashion to claim 1, incorporating the subject matter of claim 16, determined to be novel over Leber. Claim 16 is cancelled from the application. The present rejection is accordingly deemed overcome. In view of their dependence from allowable parent claims, the independent claims are determined to be allowable over Leber without any separate consideration of their merits.

Claim 25 has been amended in the same manner as claims 1 and 13. The present rejection is therefore deemed overcome.

5. **35 U.S.C. § 103**

Claims 1, 4-5, 7-8, 11-13, 16-17, 19-20, 23 and 24 are rejected as being unpatentable over U.S. patent application publication no. 2003/0093840 ("LaGarde").

Attorney Docket No. AOL0080

U.S. Serial No.: 10/620,683

Applicant respectfully disagrees. More particularly, Applicant respectfully disagrees as to the subject matter of claims 4 and 16. The Office relies on ~~¶¶~~ 0084-0085 of LaGarde as teaching or suggesting: "wherein said automated agent initiates messaging communications to said other messaging clients and mediates a discussion related to said input data."

The cited teaching describes LaGarde's Help bot. There is no indication that LaGarde's Help bot initiates messaging communications with any client at all. As described in the cited teaching, while the bot interacts with the user, the bot's role is completely reactive. It is incapable of initiating a message. The user directs a query to the bot. In response to the query, the bot may ask for additional information, and may eventually provide the user an answer to the user's query. Even when the bot questions the user, the bot's question is only a reaction to the user's previous input. If the user stopped interacting with the bot, nothing would happen. There is no suggestion in the cited teaching, that the bot could, for example, prompt the user if the user did not respond within a predetermined period of time. Thus, as described in the cited portion, LaGarde's bot is incapable of initiating a messaging communication with the user requesting information. Additionally, the interaction of the bot is strictly limited to interacting with the user who initiated the interaction. There is no suggestion in the cited portion that the bot could communicate in any way with a second user about the first user's query. Thus, the interactive capacity of LaGarde's bot is strictly reactive and strictly limited to the original seeker of information. Furthermore, there is no suggestion of the subject matter of claims 4 and 16 in the remainder of LaGarde. Leber adds nothing to LaGarde. In fact, the statement of the '102 rejection constitutes an explicit admission by the Office that Leber does not teach or suggest the subject matter of claims 4 and 16. Accordingly, there is no teaching or suggestion in the combination of the subject matter of claim 4 and 16. The present rejection as to claims 4 and 16 is deemed improper.

Claims 1 and 13 are amended to incorporate the subject matter of claims 4 and 16 respectively. Because the amended claims describe subject matter neither taught nor suggested by the combination, the present rejection is deemed overcome. In view

Attorney Docket No. AOL0080

U.S. Serial No.: 10/620,683

of their dependence from allowable parent claims, the dependent claims are deemed allowable without any separate consideration of their merits.

Claims 6 and 18 are rejected as being unpatentable over LaGarde in view of Leber and further in view of U.S. patent no. 7,139,798 ("Zircher"). In view of the foregoing amendments to the independent claims, the present rejection is deemed overcome. Even if the independent claims had not been amended, the present rejection would be improper.

There must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *KSR International Co. v. Teleflex, Inc.*, 550 U.S. __ 82 U.S.P.Q.2d 1385, 1396 (2007) (emphasis added). The Office finds that an ordinarily-skilled practitioner would have been motivated to combine the teachings from Zircher with the combination of LaGarde/Leber to modify LaGarde's bots with the functionality of Zircher's bots because it would improve Largarde's system, enabling collaboration among users in shared spaces, scheduling meetings or calendar functions.

It would not be reasonable to combine LaGarde and Zircher because the ordinarily-skilled practitioner, considering LaGarde/Leber in view of Zircher would readily understand that a simple, reactive information retrieval system such as LaGarde's would have no use for the sophisticated functionality of Zircher's bots. The ordinarily-skilled practitioner would also readily understand that Zircher's highly functional bots would be non-functional in a system that lacked any other collaborative infrastructure such as shared spaces, meeting applications, or calendar applications. Because the finding that the ordinarily-skilled practitioner would be motivated to combine the teachings of LaGarde/Leber and Zircher is not reasonable, it lacks a rational underpinning, as required by *KSR*. Accordingly, the present rejection would have been improper.

6. No new matter is added by way of the above amendments. The above amendments are made solely for expediency in deference to the Office policy of compact prosecution. Such amendments do not constitute agreement by Applicant with the Examiner's position, nor are they evidence of intent to sacrifice claim scope. In fact,

JAN 14 2008

Attorney Docket No. AOL0080

U.S. Serial No.: 10/620,683

Applicant expressly reserves the right to pursue patent protection of a scope it reasonably believes it is entitled to in future submissions to the Office.

7. For the record, Applicant respectfully traverses any and all factual assertions in the file that are not supported by documentary evidence. Such include assertions based on findings of inherency, assertions based on official notice, and any other assertions of what is well known or commonly known in the prior art.

CONCLUSION

In view of the foregoing, the Application is deemed to be in allowable condition. Applicant therefore respectfully requests reconsideration and prompt allowance of the claims. Should the Examiner find it helpful, he or she is encouraged to contact the Applicant's attorney Michael A. Glenn at (650) 474-8400.

Respectfully submitted,



Michael A. Glenn
Registration No. 30,176

Customer No. 22,862